

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

**WRIT PETITION Nos.10972 of 2007, 7283 and
10322 of 2017**

COMMON ORDER:

Since the subject matter of all these writ petitions is one and the same, they are heard together and are being disposed of by this common order.

WP.No.7283 and 10322 OF 2017

Both these writ petitions are filed challenging the proceedings No.LC2/4143/2016, dated 21.10.2016. Apart from that the petitioner in WP.No.10322/2017 also challenges the action of the respondents in conducting survey in the subject property without issuing notice to the petitioner-Association and without any Tippons and taking possession of 12 guntas of land in Survey No.4/2, which is in settled possession of the petitioner-Association since 1964 without getting declaration of title that the 1st respondent is the owner, from Court of law and also the in action of the 4th respondent in conducting enquiry under Section 7 of the A. P. Land Encroachment Act, 1905, depriving the petitioner to go in for appeal required under Section 10 of the Act and consequently to set aside the unscientific survey conducted and for restoration of possession of 12 guntas of land in Survey No.4/2 of the petitioner Society.

WP.No.10972 OF 2007

This petition is filed challenging the action of the 1st respondent in allotting the plots in petitioner-Association land to the third respondent.

Petitioner in WP.No.10972 of 2007 and 10322 of 2017 is Southend Park Residents Welfare Association and petitioners in WP.No.7283 of 2017 are the members of the said Association.

Sri P.V.Venkateswara Rao, Learned counsel for the petitioners submit that the subject land in Sy.No.8 & 9 of Mansoorabad Village was made into plots and developed by M/s.Rainbow Constructions and the same was sold to various persons and those purchasers are in possession of the same. It is also stated that some area is left for construction of community hall. In the meanwhile impugned proceedings dated 21.10.2016 was issued by the 2nd respondent allotting to an extent of 600 Sq.Yards in Survey No.4. Basing on the said proceedings, the respondent authorities are trying to make construction in the land in Survey Nos.8 and 9 without conducting any survey. The learned counsel for the petitioner in WP.No.10322/2017 submits that the petitioner association is in possession of the subject land from long time, as such, the respondent authorities cannot unilaterally evict the petitioners without following due process of law. He also submits that the respondent authorities have to approach

Civil Court for eviction of petitioners. In support of the said contention he relied on the Judgment rendered by this Court in ***B.N.Manga Devi and another v. State of Andhra Pradesh***¹.

Learned counsel for the petitioners in WP.No.7283/2017 also supports the same and submits that without conducting any survey and without following due process of law the respondents cannot allot the subject lands and occupy the same.

The case of the 3rd respondent in WP.No.10972 of 2007 is that the subject land pertains to government and that the Government allotted 600 Sq.Yards, in Survey No.4 of Mansoorabad village to the Journalists.

Learned Assistant Government Pleader for Revenue submits that the impugned proceedings dated 21.10.2016 was issued allotting the land in Survey No.4, Mansoorabad Village which is a government land and the petitioners cannot have any grievance in respect of the same, since the petitioners are claiming the land in survey No.8 & 9 of Mansoorabad Village. He also submits that since the petitioners raised dispute, notices were issued to the petitioner-association and that after conducting survey necessary action will be taken. He further on instructions

¹ 2011 (6) ALT 34

submits that Differential Global Processing Survey will be conducted with the help of village map.

In view of the aforesaid facts and circumstances, it emerges that there appears to be boundary dispute in respect of land in Survey No.4 and Survey Nos.8 & 9 of Mansoorabad Village of which the petitioner Association is claiming land in Survey No.8 &9 and the Government claims land in Survey No.4 and that the respondent No.3 in WP.No.10972 of 2007 claims that he was allotted land in Survey No.4. But, this Court cannot decide the title of the subject land.

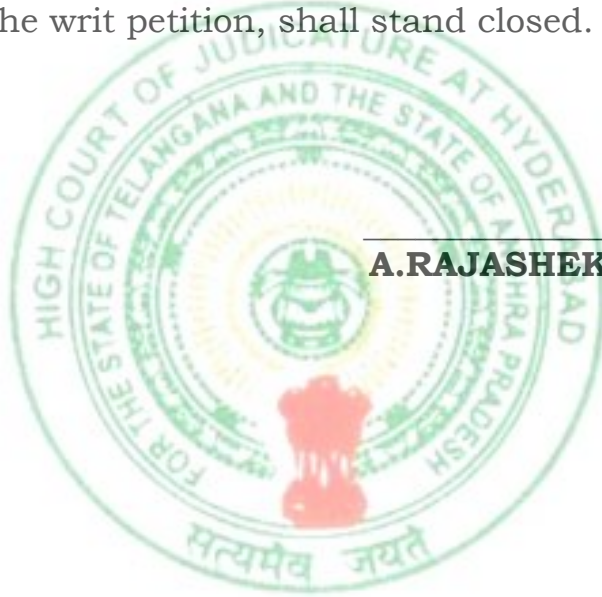
In view of the same the Assistant Director, Survey and Land Records is directed to conduct survey for demarcation of Survey Nos.4, 8 & 9 by giving notices to the petitioners in WP.No.10322/2017 and 7283/2017. On such notices being issued by the respondents, it is for the petitioner-association to inform all its members about conducting of survey. If any member of the Association has objection they can file their objections before the Assistant Director, Survey and Land Records and the Assistant Director shall take those objections into consideration while conducting survey. Since this Court on 09.07.2007 has granted stay of allotment of houses insofar as the land comprises in Survey Nos.8 & 9, in WP.MP.No.13732/2007 in WP.No.10972/2007, the same shall continue till the survey is conducted by the Assistant director. After survey is conducted the 4th respondent-Mandal

Revenue Officer/Tahasildar, shall consider the explanation of the petitioner-Association which was already submitted in pursuance of the notice dated 05.07.2014 issued under Section 7 of the Land Encroachment Act, 1905, in accordance with law, and take action by following due process of law.

Accordingly, all these writ petitions are disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

30.03.2017
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A.RAJASHEKER REDDY, J